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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PAUL DURAN, Derivatively on Behalf of
PUMA BIOTECHNOLOGY, INC.,

Plaintiff,

v.

ALAN H. AUERBACH, CHARLES R.
EYLER, THOMAS R. MALLEY, JAY M.
MOYES, TROY E. WILSON, FRANK
ZAVRL, and ADRIAN M. SENDEROWICZ,
,

Defendants,

-and-

PUMA BIOTECHNOLOGY, INC., a
Delaware corporation,

Nominal Defendant.

Case No. 2:18-cv-04802-AG (DFMx)

**STIPULATION AND
[PROPOSED] ORDER OF
VOLUNTARY DISMISSAL WITH
PREJUDICE**

1 Plaintiff Paul Duran (“Plaintiff”), Defendants Alan H. Auerbach, Charles R.
2 Eyler, Jay M. Moyes, Troy E. Wilson, Adrian M. Senderowicz, Frank Zavrl, and
3 Thomas R. Malley (the “Individual Defendants”) and Nominal Defendant Puma
4 Biotechnology, Inc. (“Puma,” and collectively with Plaintiff and the Individual
5 Defendants, the “Parties”), through their respective counsel of record, submit this
6 stipulation and proposed order.

7 WHEREAS, on May 30, 2018, Plaintiff filed a shareholder derivative
8 complaint, on behalf of Puma, commencing this action against the Individual
9 Defendants;

10 WHEREAS, parallel derivative actions have been proceeding against the
11 Individual Defendants: *Van der Gracht de Rommerswael v. Auerbach, et al.*, Case
12 No. 8:18-cv-00236-AG-JCGx, pending in the USDC for the Central District of
13 California, filed February 9, 2018 (the “Rommerswael Action”); *Xie v. Auerbach, et*
14 *al.*, Case No. BC616617, pending in the Superior Court for the State of California,
15 filed April 12, 2016 (the “Xie Action”); and *McKenney v. Auerbach, et al.*, Case No.
16 BC617059, pending in the Superior Court for the State of California, filed April 14,
17 2016 (the “McKenney Action,” and collectively with the Xie Action, the “State
18 Actions”);

19 WHEREAS, on September 28, 2018, the Parties entered into a Stipulation of
20 Settlement which was filed in the Rommerswael Action (the “Settlement”) (attached
21 hereto as Exhibit 1). The Settlement resolved claims asserted in the four related
22 shareholder derivative actions filed on behalf of Puma, including the claims asserted
23 in the instant action;

24 WHEREAS, the Settlement is expressly conditioned on the dismissal with
25 prejudice of all other related derivative actions, including this action;

26 WHEREAS, on November 5, 2018, Judge Guilford entered an order
27 preliminarily approving the Settlement which was filed in the Rommerswael Action;

1 WHEREAS, on January 7, 2019, after notice and hearing, Judge Guilford
2 entered an order and judgment finally approving the Settlement (attached hereto as
3 Exhibit 2);

4 WHEREAS, the Parties have met and conferred and agree this action should be
5 dismissed with prejudice in accordance with the Settlement, with all Parties waiving
6 all rights to appeal from or with respect to any aspect of this action;

7 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by the
8 Parties hereto, through their undersigned counsel, pursuant to Rules 23.1(c) and
9 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure and subject to the Court's
10 approval, that:

11 1. This action shall be dismissed in its entirety with prejudice, with all
12 Parties waiving all rights to appeal from or with respect to any aspect of this action;
13 and

14 2. Except as otherwise provided in the Settlement, each Party shall bear his
15 or its own costs, fees, and expenses, including attorneys' fees.

16 IT IS SO STIPULATED.

17 Respectfully submitted,

18
19 Dated: February 28, 2019

THE ROSEN LAW FIRM

20 /s/ Laurence M. Rosen

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Liaison Counsel for Plaintiff Duran

1 Dated: February 28, 2019

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11 *Counsel for Plaintiff Duran*

12 Dated: February 28, 2019

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Auerbach, Charles R. Eyler, Thomas R.
Malley, Jay M. Moyes, Troy E. Wilson,
Frank Zavrl, Adrian M. Senderowicz,*

1 *and Nominal Defendant Puma*
2 *Biotechnology, Inc.*

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5 **ATTESTATION OF FILER**

6 All signatories listed, and on whose behalf the filing is submitted, concur in the
7 filing's content and have authorized the filing.

8
9 Dated: February 28, 2019

/s/ Colleen C. Smith

Colleen C. Smith